

TRINA A. HIGGINS, United States Attorney (#7349)
JENNIFER K. MUYSKENS, Assistant United States Attorney (DC #475353)
Attorneys for the United States of America
Office of the United States Attorney
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111-2176
Telephone: (801) 524-5682

FILED
2022 MAY 19 AM 10:21
CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA, Plaintiff, vs. GRANT WALKER Defendant.	<u>FELONY INFORMATION</u> Count 1: 26 U.S.C. § 7206(2) (Aiding and Assisting in Filing False Tax Returns) Case: 2:22-cr-00178 Assigned To : Waddoups, Clark Assign. Date : 5/19/2022 Description: USA v Walker
--	--

The United States Attorney alleges:

Introduction

At all times relevant to this Information:

1. From at least April 2020 through at least February 2021, GRANT WALKER and other individuals not named herein but whose identities are known and unknown to the United States, alone and in combination, did willfully aid and assist in, and procure, counsel, and advise in the preparation and presentation to the Internal Revenue Service, of certain tax forms that were false and fraudulent as to a material matter to claim millions of dollars of COVID-related tax credits for clients.

The Defendant and Related Entities

2. Defendant GRANT WALKER was a resident of Provo, Utah.

3. Beginning in March 2020 and continuing through February 2021, GRANT WALKER was employed by an entity known to the United States (hereinafter “BUSINESS A”).

4. BUSINESS A is a company doing business in the state of Utah.

5. The Internal Revenue Service (IRS) is an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States.

**CARES Act, Employee Retention Credit and
Families First Coronavirus Response Act**

6. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020, provides for an employee retention tax credit (Employee Retention Credit or “ERC”), designed to encourage businesses to keep employees on their payroll. Subsequent legislation (The Taxpayer Certainty and Disaster Tax Relief Act of 2020 and the American Rescue Plan Act) modified and extended the ERC.

7. The ERC is a refundable tax credit against certain employment taxes equal to 50% of the qualified wages an eligible employer pays to employees after March 12, 2020, and through December 2020. For 2021, the ERC is a refundable tax credit against certain employment taxes equal to 70% of the qualified wages an eligible employer pays to employees after December 31, 2020 and through September 2021.

8. For purposes of the ERC, an eligible employer is a business with operations that have been partially or fully suspended due to governmental orders due to COVID-19, or a business that has a 50% decline in gross receipts as compared to the same quarter in 2019.

9. For each employee, wages (including certain health plan costs) up to \$10,000 can be counted to determine the amount of the ERC per calendar quarter. The ERC is capped at \$5,000 per employee retained between March 13, 2020 and December 31, 2020, and up to \$7,000 per employee per quarter retained between January 1, 2021 and September 30, 2021.

10. Qualified employers can get access to the ERC by reducing upcoming payroll tax deposits or requesting an advance credit (i.e., a direct refund payment to the employer) on a Form 7200 or a Form 941.

11. The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave (sick leave) of up to 80 hours and expanded family and medical leave (family leave) of up to 10 weeks for specified reasons related to COVID-19. FFCRA provides refundable tax credits that reimburse employers for the cost of providing paid sick and family leave wages to employees for leave related to COVID-19.

12. Together the ERC and sick and family leave wages credit are referred to herein as the COVID-related tax credits.

13. Self-employed individuals are not eligible for the ERC or sick and family leave credits under the FFCRA.

14. Form 7200 (Advance Payment of Employer Credits Due to COVID-19) is a newly created tax form used by employers to request an advance payment of the COVID-related tax credits. The Form 941 (Employer's Quarterly Federal Tax Return) may also be used to claim the COVID-related tax credits. The COVID-related tax credits may be greater than the tax owed by the employer, resulting in a refund to the employer.

The Scheme

15. From at least April 2020 through at least February 2021, within the District of Utah and elsewhere, GRANT WALKER and other individuals not named herein but whose identities are known and unknown to the United States, alone and in combination, did willfully aid and assist in, and procure, counsel, and advise in the preparation and presentation to the Internal Revenue Service, of certain tax forms (Forms 7200 and Forms 941) claiming certain tax credits – namely, the Employee Retention Credit (“ERC”) and sick and family leave credits. The Forms 7200 and Forms 941 were false and fraudulent as to a material matter in that the forms falsely and fraudulently represented the number of employees to claim additional ERC; falsely and fraudulently represented the company's eligibility for the ERC; falsely and fraudulently represented payroll to claim the ERC; and/or falsely and fraudulently represented sick and family leave wages to receive additional tax credits.

16. It was part of the scheme that GRANT WALKER and other individuals not named herein whose identities are known and unknown to the United States, to aid in the preparation and filing of Forms 7200 and Forms 941 to obtain COVID-related tax credits for clients of BUSINESS A and to charge a fee for such services, with such fee being

greater if greater COVID-related tax credits were claimed.

17. It was part of the scheme that GRANT WALKER and other individuals not named herein whose identities are known and unknown to the United States, in order to enrich BUSINESS A, themselves, and others, aided and assisted in the filing of false and fraudulent Forms 7200 and Forms 941, which claimed COVID-related tax credits to which the employers were not entitled to receive. The false and fraudulent claims for COVID-related tax credits often resulted in a refund to the employer.

18. The manner and means by which defendant GRANT WALKER and other individuals not named herein whose identities are known and unknown to the United States, alone and in combination, sought to accomplish the objects and purpose of the scheme included, among other things, the following:

19. Participants in the scheme actively solicited single-member LLCs to apply for the COVID-related tax credits, including the ERC and sick and family leave wages.

20. Participants in the scheme also actively solicited independent contractors involved in door-to-door sales, rideshare drivers, sole proprietors, and other Form 1099 workers to convert their “businesses” into LLCs, taxed as an S Corporation. Participants in the scheme advertised that a benefit of this type of LLC is to allow the independent contractors to qualify for the COVID-related tax credits, including the ERC and sick and family leave wage credits.

21. Single-member LLCs that agreed to use the services of BUSINESS A to seek the ERC had claims for the ERC submitted by participants in the scheme regardless of whether the LLC was statutorily eligible to receive the ERC, resulting in claims for the

ERC that were false and fraudulent.

22. When preparing Forms 7200 and Forms 941 to seek the ERC, participants in the scheme routinely claimed the maximum allowable wage for each employee, regardless of whether or not such wage was paid to the employee, resulting in claims for the ERC that were false and fraudulent.

23. When preparing Forms 7200 and Forms 941 to seek the ERC, participants in the scheme routinely listed the spouse of married owners of the single-member LLCs as an additional employee of the business to increase the amount of the ERC, regardless of whether or not the spouse was an actual employee of the LLC, resulting in claims for the ERC that were false and fraudulent.

24. When preparing Forms 7200 and Forms 941 for COVID-related sick and family leave credits, participants in the scheme claimed sick and/or family leave wages regardless of whether or not the LLC paid such wages, resulting in claims for these COVID-related sick or family leave credits that were false and fraudulent.

25. When preparing Forms 7200 and Forms 941 for COVID-related sick and family leave credits, participants in the scheme claimed sick and/or family leave wages regardless of whether or not a legitimate employee of the LLC had a qualifying sick and/or family leave event under the FFCRA, resulting in claims for these COVID-related sick or family leave credits that were false and fraudulent.

26. Participants in the scheme trained employees of BUSINESS A how to solicit clients to retain the services of BUSINESS A to aid and assist in preparing the Forms 7200 and Forms 941 to seek the COVID-related tax credits, and what information to gather from

clients for the purposes of preparing the tax forms.

27. Participants in the scheme trained employees of BUSINESS A how to prepare the Forms 7200 and Forms 941 to include the false and fraudulent information on the forms to increase the amount of COVID-related credits claimed by BUSINESS A on behalf of the employer.

28. Beginning on or around April 8, 2020, and continuing through August 2021, participants in the scheme prepared and submitted hundreds of Forms 7200 and Forms 941 to the IRS, claiming in excess of \$11,000,000 in ERC and sick and family leave wage credits for clients of BUSINESS A.

29. Without the prior knowledge or approval of the client, participants in the scheme signed the client's name on some of the Forms 7200 that were submitted by BUSINESS A to the IRS seeking COVID-related tax credits for the client.

30. BUSINESS A charged a fee to each client for preparing and filing the Forms 7200 and Forms 941 seeking COVID-related tax credits. BUSINESS A charged a higher fee when an owner of a single-member LLC was married and/or when credits were claimed for sick and family leave wages.

COUNT ONE
26 U.S.C. § 7206(2)
(Aiding and Assisting in Filing False Tax Returns)

31. All of the factual allegations set forth in paragraphs 1 – 30 of this Felony Information are incorporated by reference and realleged as though fully set forth herein.

32. On or about the dates listed below, GRANT WALKER and individuals not named herein but whose identities are known and unknown to the United States, did

willfully aid and assist in, procure, counsel, and advise in the preparation and presentation to the Internal Revenue Service, of Forms 7200 and 941, claiming certain COVID-related tax credits for the following taxpayer, which were false and fraudulent as to material matters as described below:

TAXPAYER	APPROX. DATE OF FILING	FORM	ERC CLAIMED	SICK LEAVE CLAIMED	FAMILY LEAVE CLAIMED	FALSE ITEM(S)
T.J.E. LLC	4/24/2020	7200	\$10,000	\$0	\$0	Number of Employees, Wages Paid, Signature
T.J.E. LLC	5/10/2020	7200	\$10,000	\$3,620	\$0	Number of Employees, Wages Paid, Sick Leave Wages, Signature
T.J.E. LLC	5/27/2020	7200	\$10,000	\$3,620	\$1,015	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	5/27/2020	7200	\$10,000	\$3,620	\$2,029	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	5/31/2020	7200	\$10,000	\$3,620	\$3,044	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	6/08/2020	7200	\$10,000	\$3,620	\$4,058	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	6/17/2020	7200	\$10,000	\$3,620	\$5,073	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	6/29/2020	7200	\$10,000	\$3,620	\$6,087	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	6/29/2020	7200	\$10,000	\$3,620	\$7,102	Number of Employees, Wages Paid, Sick Leave Wages, Family Leave Wages, Signature
T.J.E. LLC	7/21/2020	941	\$10,000	\$3,568	\$6,000	Number of Employees, Wages Paid, Sick Leave

						Wages, Family Leave Wages
--	--	--	--	--	--	------------------------------

In violation of Title 26, United States Code, Section 7206(2).

TRINA A. HIGGINS
United States Attorney

/s/ Jennifer K. Muyskens
Jennifer K. Muyskens
Assistant United States Attorney